

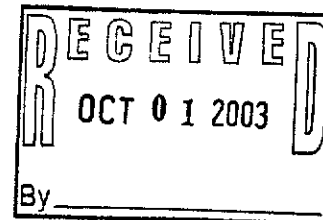


September 26, 2003

California Integrated Waste Management Board
California Environmental Protection Agency
1001 I Street
Sacramento CA 95814

Attn: Nikki Mizwinski
Office of Local Assistance

Tabetha Willmon,
Central Section Supervisor
Office of Local Assistance



Dear Mmes. Mizwinski and Willmon;

Thank you for your letter of September 22, 2003. The following is a clarification and additional information concerning your site visit of June 3-4, 2003.

Mountainside Disposal, Inc. is the responsible party under a Franchise Agreement with the City of Arvin to provide refuse collection, to assist the City with AB939 compliance and to hold the City harmless from AB939 noncompliance. It is the City's position that Mountainside has not fulfilled its contractual obligations with respect to AB939, as is more fully described below.

At the time of the June 3-4 site visit, Mountainside had advised the City that it would voluntarily terminate the Franchise Agreement, allowing the City to assume control over refuse collection, and to adopt a viable and feasible AB939 program. Unfortunately, since that time, Mountainside has changed direction requiring the City to serve formal Notice of Termination of the Franchise Agreement, unless Mountainside cures its default within 30 days, which time will expire on or about October 11, 2003. Therefore, pending resolution of the relationship with Mountainside, the City is unable at this time to independently formulate and propose a new plan for AB939 compliance.

In November of 2001, Mountainside submitted the current SB 1066 Time Extension Application to the California Integrated Waste Management Board, without the participation, input or approval of the City. Said Current-1066 is not viable or feasible, causing the City to be in a position of noncompliance with AB 939, as follows:

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Program 1 – Residential Curbside #2000

According to the Current-1066, the City must achieve a total 17% increase in the diversion rate by December 31, 2003. Program 1 of the Current-1066 is estimated to provide a 1% contribution toward that 17% total. After an inordinate amount of time spent in the pilot program, Mountainside advised the City that this 1% diversion would cost the City \$100,000 annually. At that rate, the 17% diversion would cost \$1,700,000, tripling the current charges to the City, its businesses and residents! This key element to the Current-1066 is not economically feasible, nor has Mountainside proposed any alternative program.

Program 2 – Commercial On-Site Pickup #2030

Mountainside grossly overstated the contribution to diversion for the commercial program. In order to reach the projected 4% diversion as stated in Current- 1066, the City would have to generate roughly 480 tons of material annually. The pilot program shows an actual annual tonnage of only 150 as shown on Attachment 2; or only a 1.3% diversion, less than 1/3 of the estimated diversion this program would contribute to the City's compliance goal of 45% by December 31, 2003.

Pilot Commercial Recycling by Price

Type	Pounds	Weeks	Tons	TPY
OCC	5517	2	2.78	71.72
Mixed	2920	2	1.46	37.96
News	400	2	0.20	5.20
Plastic	1210	2	0.61	15.73
Metal	1560	2	0.78	20.28
Totals				150.89

Overall Diversion
 Contribution = 1.3%

The commercial pilot was not publicized adequately. Also, the program failed to include 1-4 cubic yard bins. The automated 96 gallon containers that were used minimized the amount of materials collected from the commercial sector, specifically cardboard which is bulky and makes up 92% of the recyclable paper (reference Table 3-5 of the SRRE in Attachment 1)



1 – 4 cubic yds



96 gal

Program 3 – Commercial On-Site Greenwaste Pick-up \$3020

This program is not feasible for diversion in the commercial sector. In the Current-1066, Mountainside estimated the diversion to be 4% upon full implementation of the program. The 4% diversion, which equates to 480 tons

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annually, is an apparently impossible goal in that the total available green-waste in the commercial sector is only 68 tons according to the City's SRRE (see Attachment 1).

Program 4 - Print #5010

Mountainside has failed to properly implement a bilingual program, and the evidence indicates that it was and is incapable of such a program. The "bilingual" pieces created by Mountainside were a dismal attempt to influence a diverse and culturally significant component of the residential sector, namely the Hispanic population. Some of the pieces could not be understood in Spanish even by Spanish language native speakers. It is clear from statements made by Mountainside in connection with this program that it lacks an appreciation of State Policy with regard to bilingual outreach, and may in fact violate equal opportunity and equal protection standards required by Federal laws and mandates. Mountainside has failed and proven to be incapable of assisting the City in implementing an effective recycling program in the predominantly Hispanic culture of Arvin.

Program 5 - Outreach #5020

The City concurs with the Board's review of this program. It is unfortunate, but Mountainside did not advertise this program as required, nor did they operate the program for more than two weeks (see attached document). As stated above, the City is currently unable to assume sole control of these programs until October 11, 2003, at the earliest.

Program 6 - Schools #5010

The City concurs with the Board's review of this program. It is not known at this time if Mountainside ever went to Arvin schools to educate them on recycling and source reduction with respect to the Blue Barrel program. Again, the City is unable to assume control of this program until October 11, 2003, at the earliest.

Program 7 - Economic Incentives #6010

The City does not approve of this program. First, the City has no evidence that Mountainside has actually redirected curbside recycling revenue to support youth programs. Furthermore, the City believes that such redirection would be a misappropriation of funds from Arvin residents and businesses to activities unrelated to the cost of refuse collection or recycling. It is not helpful for Mountainside to state that such 50% misappropriation will be increased to 100%, especially without the approval of the City after adequate legal review. The City's position is that any "donation" of the citizen's money must be done with the full knowledge, consent and approval of the City Council subject to state law.

Program 8 - Ordinances #6020

The Current-1066 submitted by Mountainside indicates that all construction and demolition materials must go to Crown Disposal for separation and processing per Ordinance #322, however, Ordinance #322 does not, in fact, have any such

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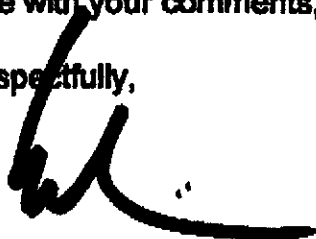
requirement. In addition, a government entity is not allowed under state law to direct where solid waste must be handled. This program has been under the exclusive control of Mountainside, and any lack of implementation is the result of Mountainside's failure to carry out its own program.

Conclusion

It is the City's Intention to honestly comply in good faith with AB 939 with feasible programs that make economic sense for the community it serves. However, as described above, the Current-1066 submitted by Mountainside is not viable or feasible due to inaccuracies, economic factors, logistical impediments, lack of implementation, inadequate and incapable education and outreach, lack of linguistic expertise and cultural sensitivity and other issues. Mountainside has, thus, placed the City in a position of noncompliance, and has further stated that it will not voluntarily step aside to allow the City to correct the situation and control its own recycling.

We will keep you fully informed over the next several days as matters proceed with Mountainside. In the meantime, please do not hesitate to contact me at any time with your comments, questions and suggestions.

Respectfully,



Enrique Medina-Ochoa
City Manager

Copy to Honorable Mayor and City Council
 David A. St. John, City Attorney

Attachments:

- 1. 1990 Solid Waste Generation Summary**
- 2. Commercial Recycling in Arvin, CA**

Table 3-6

1990 Municipal Solid Waste Generation by Sector (summary)

	MSW Generation (tons)				MSW Generation (% by weight)			
	Residential	Commercial	Industrial	Total	Residential	Commercial	Industrial	Total
Paper								
Corrugated Containers	387	1,415	47	1,849	21.3%	74.1%	2.6%	100.0%
Mixed Paper	141	27	0	168	84.0%	18.0%	0.0%	100.0%
Newspaper	384	33	0	327	88.9%	10.1%	0.0%	100.0%
High Grade Ledger	37	64	4	104	35.5%	61.1%	3.4%	100.0%
Other Paper	493	549	29	894	74.1%	21.8%	4.4%	100.0%
Total Paper	1,342	1,658	80	3,122	45.2%	52.8%	2.6%	100.0%
Plastics								
HDPE Containers	83	12	0	78	84.3%	15.4%	0.4%	100.0%
PET Containers	17	3	0	18	88.9%	14.3%	0.0%	100.0%
Film Plastics	138	47	10	195	70.9%	23.9%	5.3%	100.0%
Polystyrene Foam	36	17	2	54	84.7%	31.8%	3.3%	100.0%
Other Plastics	126	186	84	430	32.5%	47.4%	20.1%	100.0%
Total Plastics	390	377	97	765	27.1%	26.3%	12.7%	100.0%
Glass								
Recyclable Bvg Containers	0	0	0	0	0.0%	0.0%	0.0%	0.0%
CA Redemption Value	113	18	1	121	89.5%	12.5%	1.0%	100.0%
Other Recyclable Glass	88	12	0	80	86.1%	14.9%	0.0%	100.0%
Other Non-recycl Glass	18	91	8	116	16.5%	78.7%	5.5%	100.0%
Total Glass	199	118	8	327	27.1%	36.8%	2.6%	100.0%
Metals								
Aluminum Cans	54	3	0	57	86.1%	4.8%	0.0%	100.0%
St-Metal Containers	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Ferrous Metals	347	1,446	8	1,801	14.3%	88.4%	0.3%	100.0%
Non-Ferrous Metals	18	104	0	117	11.4%	58.6%	0.0%	100.0%
White Goods	37	0	0	37	100.0%	0.0%	0.0%	100.0%
Total Metals	346	1,557	8	1,902	74.3%	27.6%	0.3%	100.0%
Yard Waste								
Yard Waste	1,857	68	2	1,927	95.0%	3.8%	0.1%	100.0%
Total Yard Waste	1,857	68	2	1,927	95.0%	3.8%	0.1%	100.0%
Other Organics								
Food Waste	446	117	7	570	78.3%	20.6%	1.2%	100.0%
Rubber and Tire	82	348	0	408	18.3%	84.7%	0.0%	100.0%
Wood Waste	259	867	110	1,034	25.2%	94.1%	10.7%	100.0%
Agricultural Crop Residues	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Manure	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Textiles & Leather	330	33	0	363	80.2%	9.2%	0.1%	100.0%
Other Misc Organics	84	28	0	89	72.0%	28.0%	0.0%	100.0%
Total Other Organics	1,199	1,178	117	2,484	47.2%	48.0%	4.8%	100.0%
Inorganics								
Inert Solids	148	628	567	1,343	10.7%	48.1%	43.2%	100.0%
Held Hazardous Waste	17	8	0	24	88.3%	31.7%	0.0%	100.0%
Asbestos	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Disposable Diapers	181	20	0	201	80.3%	9.7%	0.0%	100.0%
Other Inorganics	87	24	0	86	72.5%	27.5%	0.0%	100.0%
Total Inorganics	433	677	567	1,668	24.3%	48.6%	35.2%	100.0%
Special Wastes								
Ash	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Sewage Sludge	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Industrial Sludge	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Asbestos	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Auto Driveway Waste	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Auto Bodies	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Other Special Wastes	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Total Special Wastes	0	0	0	0	0.0%	0.0%	0.0%	0.0%
Total	5,529	5,553	898	11,978	46.2%	46.48%	7.5%	100.0%

Total Paper

Total Green Waste

Commercial Recycling in Arvin, CA

Mountainside Disposal, Inc. conducted a pilot program of Commercial Recycling in Arvin, CA. This study took place over a two-week period during the month of March 2001. The following indicates the volume of recyclable commodities that were extracted from the waste stream and the revenue generated by the sale of these commodities.

Commodity	Weight (lbs.)	Revenue From Sale of Product
* Cardboard	5517	\$ 98.15
Mixed Paper	2920	\$ 14.60
Plastic 2, 3	1000	\$ 40.00
Plastic 1	210	\$129.07
Metal	1500	\$ 15.00
Aluminum	60	\$ 66.00
Wood & Green Waste	768	\$0.00
Newspaper	400	\$ 7.00
Total	12376	Total \$367.82

The loads of material from the commercial waste stream varied from 2 to 5 tons per day. 5 employees were required to operate the program: 1 tractor operator, and 4 recycling belt operators. The crew processed the material at a rate of 2 to 4 tons per hour. A clean up and transfer of recyclable materials into larger containers required 1.5 hours per day. Average labor required to process these small loads was 12.5 man-hours per day.

ORDINANCE 322
AN ORDINANCE OF THE CITY OF ARVIN AMENDING
SECTION 8.08.180 OF THE ARVIN MUNICIPAL
CODE REGARDING DISPOSITION OF CONSTRUCTION
AND DEMOLITION WASTE IN THE CITY OF ARVIN

THE CITY COUNCIL, OF THE CITY OF ARVIN, CALIFORNIA DOES ORDAIN AS
FOLLOWS:

The City of Arvin hereby amends section 8.08.180 of the Arvin Municipal code as
follows:

"8.08.180 REGULATION OF DISPOSITION OF CONSTRUCTION WASTE"

All construction and demolition wastes within the City will be disposed of at a facility
designed to process these types of waste, as long as such facility exists within twenty five
(25) miles of the City limits. The gate fee at these facilities will not exceed gate fees in
effect at County landfills at time of disposition. These types of waste will no longer be
taken to County owned/operated landfills.

City Building Department will issue permits for all construction and demolition projects
and will require proof of completion of disposition of these types of wastes.
This Ordinance shall become effective as provided by law.

PASSED, APPROVED, AND ADOPTED THIS FIFTH DAY OF MARCH, 2002 by the
following vote:

AYES: OLIVARES, PEREZ, ACEVEDO, BRENNAN, VILLANUEVA

NOES:

ABSENT:

ABSTAIN:

ATTEST:

Gola Manasco, City Clerk


Juan Olivares, Mayor

I, Gola Manasco, City Clerk of the City of Arvin, California, do HEREBY CERTIFY that
the foregoing is a true and accurate copy of Ordinance 322, introduced at a regular
meeting of the Arvin City Council on the date and vote indicated herein.

Gola Manasco, City Clerk